

March 13, 1984

LB 695

CLERK: 25 ayes, 0 nays on adoption of Senator Labedz's amendment, Mr. President.

PRESIDENT: The amendment is adopted.

CLERK: Mr. President, Senator Landis would move to amend. Senator Landis' amendment is on page 1433 of the Journal.

PRESIDENT: Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, if you will open your Journals to LB 695, amendments appearing on page 1433, you will see that I am substituting four words for four words. The words that are now in the bill in the definition of viability that I am striking are "more than merely momentary" and I am replacing them with "capable of sustained survival." Viability is that point at which a fetus can live outside the womb with or without artificial assistance. It is important because viability is one of the seminal time factors in the distribution of one's right to abortion and the counterbalancing interests of the state and to the life of a child. It is the very issue that this body has wrestled with exhaustively in the past. The language that is currently in 695 appears in a Warren Urbom Federal District Court decision ruling on Nebraska's abortion law, a law this body passed after exhaustive discussion and debate and in which essentially Senator Labedz carried the day, the Legislature followed her direction and we passed that bill. The viability discussion that we had before pointed to the same problem but we hued to the line at the time that Senator Labedz held. She was successful. The bill was passed. It went to court. It was struck down. And Warren Urbom in that decision spoke about the lack of precision in our definition of viability and why it failed. Part of that discussion appears in the material that Senator Labedz has given to you on the floor. Look at the case that is cited for the reason why our last definition was unsuccessful. You'll find it, by the way, in both Senator Labedz' and my material on your desk. Warren Urbom wrote, "I agree with the plaintiffs..." Those are the ones who were contending that our law was unconstitutional. "I agree with the